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HEARING

ON

H.R. 8386

FOR THE RELIEF OF ROY P. BENAVIDEZ

BEFORE THE

MILITARY PERSONNEL SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

NOVEMBER 21, 1980

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
MILITARY PERSONNEL SUBCOMMITTEE,
Washington, D.C., November 21, 1980.

The subcommittee met, pursuant to notice, at 1:30 p.m., in room H-227, the Capitol, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. The meeting will come to order.

Today's hearing has been called with little notice in an effort to consider legislation introduced by our colleague, Hon. Joe Wyatt, Jr., to authorize the President to award a Medal of Honor to a deserving former serviceman, M. Sgt. Roy P. Benavidez.

[Text of the bill follows:]

V

96TH CONGRESS
2D SESSION

H. R. 8386

For the relief of Roy P. Benavidez.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 1980

Mr. WYATT introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

For the relief of Roy P. Benavidez.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limitation contained in section 3744 of title 10, United States Code, with respect to the awarding of certain medals to persons who served as members of the Army shall not apply with respect to the awarding of the Medal of Honor to Master Sergeant Roy P. Benavidez (United States Army retired) (service number 455–02–5039), of El Campo, Texas, for acts of valor performed in the Republic of Vietnam in 1968.

Mr. WHITE. I appreciate the members' indulgence concerning the short notice involved in this meeting. However, I understand the Department of the Army has only recently received information that would support such an award.

Our witness is the author of the bill, Congressman Wyatt.

Congressman Wyatt, please proceed.

Mr. WYATT. Why don't we go ahead and go with the service witness first.

Mr. WHITE. All right; we will change the order.

The Army will present its testimony first, please.

STATEMENT OF MAJ. ROBERT ROUSH, MILITARY AWARDS BRANCH, MILITARY PERSONNEL CENTER, DEPARTMENT OF THE ARMY

Major ROUSH. Good afternoon.

My name is Maj. Robert Roush, Chief of the Policy Section of the Army's Military Awards Branch.

Mr. WHITE. Do you have a statement concerning the bill introduced by Mr. Joe Wyatt, Jr., concerning Roy P. Benavidez, who has been recommended for the Medal of Honor?

Major ROUSH. Sir, we have not seen the bill and we are, therefore, unable to comment.

Mr. WHITE. I understand the nature of the bill is that it merely extends the statute of limitations time. It does not in itself recommend a Medal of Honor.

This is so he may be considered by the President and, under those circumstances, do you have a position?

Can you give us some circumstantial background that led up to the consideration of M. Sgt. Roy P. Benavidez?

Major ROUSH. Yes, sir; I can.

Master Sergeant Benavidez, then staff sergeant, in the Republic of Vietnam on May 2, 1968 demonstrated conspicuous gallantry and intrepidity, at the risk of his life, above and beyond the call of duty while engaged in combat action.

The valorous actions he performed clearly meet the statutory criteria for award of the Medal of Honor.

Mr. WHITE. Now, how is it that this bill was introduced? Has the statute of limitations otherwise run?

Major ROUSH. Yes, sir; Sergeant Benavidez' commander, Lieutenant Colonel Drake, recommended award of the Medal of Honor to Sergeant Benavidez under Public Law 93-469, which was enacted by Congress in October 1974.

This particular bill extended the 2-year time limit for recommending the award of military decorations for acts performed in Southeast Asia.

Colonel Drake's recommendation for award of the Medal of Honor was processed under this extension.

Mr. WHITE. I see. Well, at what point did he come in with the recommendation?

Major ROUSH. He originally tried to come in in April 1974; there was no legal basis for him to come in at that time because the time limitations had expired. When Public Law 93-496 was passed later in 1974 and the word filtered down to him; then he came forth in May 1975 again.

Mr. WHITE. Do you know the position of the Secretary of Defense relating to this award?

Major ROUSH. Yes, sir; he has recommended approval to the President.

Mr. WHITE. The President——

Major ROUSH. The President has not acted on this particular matter at this time. He is the final approval authority.

Mrs. HOLT. Do we know what the attitude of the President is? Do you feel that he will support it?

Major ROUSH. There has been no indication from the White House, Ma'am. The award recommendation has been thoroughly staffed within the Army. It has also been looked at by the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of Defense.

Mrs. HOLT. The President generally goes along with that recommendation, doesn't he?

Major ROUSH. I know of no occasion where the President has disapproved a Defense recommendation for award of the Medal of Honor.

Mrs. HOLT. All right.

Mr. WHITE. Mr. Hopkins?

Mr. HOPKINS. Is it normal for it to take 12 years? Why the time lapse?

Major ROUSH. Sir, it is somewhat abnormal for such a time frame to go by without appropriate recognition of valorous combat actions. Sergeant Benavidez had been recommended for the Distinguished Service Cross for his actions.

Mr. HOPKINS. Did he receive that?

Major ROUSH. He did receive the Distinguished Service Cross in July 1968. That was 3 months after the action he had performed. It was not until 5 or 6 years later that his commander became aware of the voluntary nature and the sustained nature of Master Sergeant Benavidez' actions that day, Colonel Drake's conscience evidently dictated that he had not come forth with the proper recommendation the first time.

He felt that Sergeant Benavidez deserved higher honor and made the decision to seek an upgrade of that particular award.

Mr. HOPKINS. Is this the same individual that originally recommended the Cross?

Major ROUSH. Yes, sir, the same individual. Again, all the facts were not known to him at the time. It was a very difficult time in Vietnam. The pace fast and furious. After he had been made aware of additional facts, Colonel Drake's conscience dictated that he recommend a higher award.

Mr. HOPKINS. I am all for it but thank goodness the Sergeant didn't take 5 years to determine what he was going to do on May 2, 1968. He was able to act a little bit more expeditiously and a little more swiftly.

I am delighted, let me say that to you, but I am also somewhat concerned that it takes 5 years for this. This is in my view part of the problems that we have in service today.

I would be a little bit critical of the 5-year lapse. What if the man had died during this time? What good would it have done him or his family or this country for his commanding officer to have

suddenly waited 5 years and upon notice of his death, gee, we should give him a medal.

I am delighted to do it and I want to help my colleague, Mr. Wyatt, and I congratulate him for bringing it to our attention, but I think the record ought to show that our commanders ought to be as swift as the sergeant was on May 2, 1968, or at least a little bit more swift.

Major ROUSH. Yes, sir; however, the Army's awards system is by and large subjective and it was the commander's decision at the time to recommend the Distinguished Service Cross.

Colonel Drake's recommendation at the time was based on the limited information he had in a combat environment.

It was over a period of a few more years, based on additional information, that he decided to recommend the Medal of Honor.

Mr. WHITE. I understand he learned other facts at a later date.

Major ROUSH. That is correct; he learned of the fact that Sergeant Benavidez had volunteered for this mission. All along, Colonel Drake was of the distinct impression that Sergeant Benavidez was part of the designated extraction team. He was not aware that Sergeant Benavidez was part of the reaction force, only to be called upon when absolutely needed.

Mr. HOPKINS. Who brought this to his attention?

Major ROUSH. Sir, members within his command at a later date.

Mr. HOPKINS. OK; well, that sheds a different light on the commander's decision perhaps.

Mr. WHITE. Mr. Nedzi?

Mr. NEDZI. No questions.

Mr. WHITE. Thank you very much.

Counsel?

Mr. WINCUP. I wonder if it might be useful to put in the report this memo that the Secretary of the Army sent the Secretary of Defense in support of the award. The Secretary of Defense has nominated taking action and asked the major to provide a summary of the events that were the basis for the award of the medal for the record.

Mr. WHITE. Without objection, the letter from the Secretary of the Army addressed to the Secretary of Defense proposing award of a Medal of Honor to S. Sgt. Roy P. Benavidez, U.S. Army, now retired, will be placed in the record at this point.

[The following information was received for the record:]

SECRETARY OF THE ARMY,
Washington, October 14, 1980.

Memorandum for the Secretary of Defense
Subject: Proposed Award of the Medal of Honor—Action Memorandum

Master Sergeant (then Staff Sergeant) Roy P. Benavidez, United States Army Retired, has been recommended for award of the Medal of Honor for conspicuous gallantry and intrepidity in action above and beyond the call of duty on 2 May 1968 during the Vietnam Conflict. The Chief of Staff, Army and the Joint Chiefs of Staff recommend approval of the award of the Medal of Honor to Master Sergeant Benavidez.

MSG Benavidez was initially recommended for and awarded the Distinguished Service Cross (DSC) for his valorous actions. This action seeks appropriate recognition of his extreme heroism by award of the Medal of Honor. He was first recommended for award of the Medal of Honor in May 1975 by Lieutenant Colonel Drake, his former commander. LTC Drake submitted this recommendation after he had become aware of the voluntary and sustained nature of MSG Benavidez' unparalleled valorous actions. Public Law 93-469 extended the time limits for award of

decorations for acts in Southeast Asia and provided LTC Drake the legal basis to seek an upgrade of the DSC. LTC Drake's recommendation, while well-written, was not adequately supported by eyewitness accounts and was consequently disapproved by the Joint Chiefs of Staff (JCS) in March 1976. Subsequent to this JCS decision, the Army received five additional witness statements (four eyewitness accounts) and a personal statement of MSG Benavidez concerning his extraordinary valor. Careful review of these statements provided new substantitive and critical background information not previously considered. The Chief of Staff, Army concluded that the JCS should reconsider the case and recommend approval of the award of the Medal of Honor to MSG Benavidez. The Joint Chiefs of Staff concurred in this assessment and favorably indorsed the recommendation.

Since this recommendaton is being processed outside the statutory time limits for award of the Medal of Honor (Section 3744, Title 10, United States Code), legislative waiver will be required prior to award of the decoration. Your staff has advised that legislative waive should not be pursued until you and the President approve the recommendation.

I have carefully reviewed the recommendation and all allied documents in support of this case. I firmly believe that MSG Benavidez' extremely valorous actions are most worthy of the Nation's highest military honor. I, therefore, strongly recommend that favorable consideration be given to the award of the Medal of Honor to MSG Roy P. Benavidez. In accordance with Memorandum from the Deputy Assistant Secretary of Defense, 5 May 1966, I have inclosed necessary documentation for your approval and further transmittal to the White House.

CLIFFORD L. ALEXANDER, Jr.

Major ROUSH. On May 2, 1968, Master Sergeant Benavidez distinguished himself by a series of daring and bold actions while assigned to Detachment B-56, 5th Special Forces Group (Airborne) 1st Special Forces, Republic of Vietnam.

It was on this date that a 12-man Special Forces reconnaissance team was inserted by helicopters into a dense jungle area west of Loc Ninh, Vietnam, to gather intelligence information on large-scale enemy activity.

This area was known to be controlled and routinely patrolled by a large North Vietnamese Army force. It was after a short period of time on the ground that this 12-man team came under intense enemy fire and requested emergency extraction. Three attempts were made to extract the team. All attempts were unsuccessful due to heavy small arms and antiaircraft fire.

These aircraft returned to its forward operating base to drop off its wounded and to assess aircraft damage.

It was at this time that Sergeant Benavidez ran to one of the helicopters assisted in caring for the wounded, and made the voluntary decision to return with one of the extraction helicopters to assist in bringing out his wounded comrades.

Upon reaching the location of the reconnaissance team, Sergeant Benavidez informed the aircraft pilot to drop him off about 75 meters from its location, because the enemy fire was so intense.

Once dropped off from a hovering helicopter, Sergeant Benavidez rushed to the crippled team. While running to the team he was wounded twice: Once in his right leg and another time in his face and head. But he continued on despite these wounds and took charge of the beleaguered team.

All of the members of the team by this time had been either wounded or killed. After he had taken charge of the team he also repositioned their fire to protect the team from massing North Vietnamese Army forces.

He then threw smoke canisters to direct the extraction helicopter to the position and began to drag and carry his wounded comrades to the awaiting helicopter when it landed.

Once he had half the team onboard, he ran alongside the helicopter to pick up the other half of the team on the other side of the pickup zone. While running along beside the aircraft, he provided suppressive, protective fire.

Upon reaching the other team members he loaded the wounded and dead and then returned to the team leader's body to retrieve classified documents that were in his possession.

Upon reaching the dead team leader's body, he was severely wounded in the abdomen by small arms fire and simultaneously the helicopter pilot was mortally wounded, causing the helicopter to crash.

Despite his painful wounds, Sergeant Benavidez returned to the helicopter, assisted the wounded and stunned survivors out of the overturned chopper and again formed them into a defensive perimeter.

He then tended to his wounded comrades, applying first aid measures, distributing water and ammunition and encouraging in them the will to fight and live. The North Vietnamese continued to build up in great numbers.

It was at this time that Sergeant Benavidez secured an emergency radio, called in tactical air strikes and gunship support and was able to quell the enemy for another extraction attempt.

Another helicopter was able to make it in and land. Just prior to the helicopter landing, Sergeant Benavidez was again wounded in his left leg, but he continued to lead and once again began loading the members of the team in the aircraft.

By this time, those that were still alive were more severely wounded. The team had sustained two more casualties; killed in action.

On his second trip back with the wounded, he was clubbed from behind by a thought-to-be dead North Vietnamese soldier and, reacting to this clubbing, he stood up and engaged in hand-to-hand combat, sustaining additional wounds. But he was able to suppress this enemy soldier and continue toward the helicopter with his second load of personnel, one dead individual hanging from one arm and another seriously wounded individual dragged with the other.

Just as he reached the aircraft he saw two North Vietnamese soldiers approaching the aircraft from an angle at which the aircraft door gunner could not fire. He dropped the individuals he was carrying and shot and killed the two North Vietnamese soldiers.

Later testimony from a copilot and a crew chief aboard that helicopter indicated that had not Seargeant Benavidez taken this action, these two North Vietnamese soldiers could have destroyed the helicopter and killed the crew.

After this second trip to the helicopter, he went back to the perimeter again, brought in the remainder of the team, and made one last sweep of the area to make sure all personnel had been loaded and there was no classified material left behind.

Several eyewitnesses indicated that his intestines were hanging out and that he was holding his intestines in with his hands. At this time, with all loaded, and suffering from multiple wounds, he permitted himself to be pullled into the aircraft.

The helicopter then departed, extremely overweight with critically wounded and dead soldiers.

This sums up the actions that Sergeant Benavidez took on May 2, 1968, in the Republic of Vietnam.

Again, I must stress that Sergeant Benavidez voluntarily joined his comrades who were in critical straits. He constantly exposed himself to withering fire and his refusal to be stopped, despite numerous severe wounds, saved the lives of at least eight men.

His fearless personal leadership, tenacious devotion to duty, and extremely valorous actions in the face of overwhelming odds were in keeping with the highest traditions of military service and reflect great credit upon himself and the U.S. Army.

Sir, this is a long summation. I apologize. I have been very close to the case for quite some time.

Mr. HOPKINS. Mr. Chairman, I join all of my colleagues in congratulating him for what is a tremendous story that should have been told long before now, therefore, I salute my colleague for bringing this to our attention.

What medals are between the Congressional Medal of Honor and the Cross that he was originally awarded?

Major ROUSH. Sir, there are none. He was awarded the second highest award for valor, the Distinguished Service Cross. There is a very fine line between the Medal of Honor and the Distinguished Service Cross. When the Joint Chiefs of Staff disapproved the original recommendation in 1976 for the Medal of Honor, it was a fine-line subjective decision.

Mr. NEDZI. Will the gentleman yield?

Mr. HOPKINS. Yes.

Mr. NEDZI. What was discovered subsequent to the original recommendation which altered the recommendation?

Major ROUSH. Sir, the original recommendation was submitted without substantive eyewitness accounts.

Colonel Drake was able to piece together some information. He got some statements from pilots or copilots in the area and some statements from operations personnel who were in the rear monitoring radio traffic or who had heard other members talk about what Sergeant Benavidez had done.

However, except for little pieces of information, there was no comprehensive eye-witness account of what Sergeant Benavidez had done on May 2, 1968. It was only in the early part of this year that we found the only other living U.S. soldier on the ground at the time.

We obtained his statement, which clearly brought together all these things that others had seen or heard. This key eyewitness statement put the award recommendation in clear perspective, leaving no doubt in anyone's mind in the Defense Department that what Sergeant Benavidez had been described as doing that day was indeed factual.

Mr. NEDZI. Mr. Chairman, I would like to say that I don't have any problem with this, obviously. It is a departure from the customary way in which these medals are awarded.

However, I don't think any dangerous precedents are being set in light of the established facts, and what we are doing here is right-

ing a wrong, so to speak, and that is of long-standing and I support you.

Mr. WHITE. Are there any other questions of Major Roush?

Major ROUSH. Thank you very much for your time.

Mr. WHITE. We are going to hear from Congressman Wyatt.

Mr. HOPKINS. If I may, I am delighted to help in any way. If it is necessary that I stay here for a vote——

Mr. WHITE. He is going to take about 1 or 2 minutes.

Mr. Wyatt?

STATEMENT OF HON. JOE WYATT, JR., A REPRESENTATIVE FROM TEXAS

Mr. WYATT. Thank you very much, Mr. Chairman.

I don't think I need to go into the comments about the valor that Sergeant Benavidez showed.

I will say Major Roush did an excellent job and he did it without reading it. It shows that he himself is well aware of the valor, I think, of Sergeant Benavidez, and he was notified this morning that he was to be here, and it is a tribute to the military and certainly to Major Roush that he does care enough and does know the circumstances of this particular situation.

I thank him, and certainly can add very little further.

I would say to the committee, in regards to this matter, it has been before the Joint Chiefs. It has been before the Secretary of the Army last evening. I understand it was signed off last evening by the Secretary of Defense.

Mr. HOPKINS. What do you mean, approved?

Mr. WYATT. He approved the recommendation. However, it has not been transmitted to the White House.

I want to make that clear for the record that of course before the award can be granted we would have to weigh the time requirement, and that is what the essence of this bill is.

I am not attempting to secure an award that has not been recommended by the Joint Chiefs and the Civilian Branch of the Department of Defense, but merely am attempting to weigh the time requirement, because I think there has been a wrong here.

I would further state to you that the eyewitness was found. One of the reasons that it took as long as it did is because the gentleman's name was O'Connor. Sergeant Benavidez thought his name to be Connor and when asked he was told it was Connor and there was a great deal of difficulty finding this gentleman.

Again, through good work at the Department of Defense and the fact that the Army did care, they researched the Archives and the O'Connor was found. This is another reason it was postponed, so there has been a considerable amount of work done by the Department of Defense on the case, and I feel confident that we would not be embarrassing ourselves as you can tell from the action, if we would take the action we are taking today.

I am asking for it because it is late in this Congress.

I thank you very much for asking the Members to come, and I certainly appreciate each one of you being here.

Mr. WHITE. You make a very fine Member of the Congress, and we are sorry to see you leave. This is very fitting it is one of the last gestures you make.

I have no further questions.

Mr. HOPKINS. May I suggest that we might consider in view of what has happened and in view of the contribution of our colleague who is leaving, I only offer this as a suggestion, that he might want to consider having the staff prepare a letter over your signature to the sergeant signed perhaps by the other members of this subcommittee, explaining why and what we did and adding our congratulations.

Mr. WHITE. Is there any objection to this?

Mr. NEDZI. I have none.

Mrs. HOLT. None.

Mr. WHITE. We would ask counsel to prepare such a letter.

Mr. WYATT. Thank you.

Mr. WHITE. Thank you, Mr. Wyatt.

Is there a motion?

Mrs. HOLT. I move that we adopt the bill, Mr. Wyatt's bill.

Mr. WHITE. To waive the statute of limitations.

Mrs. HOLT. I move that we report this favorably.

Mr. NEDZI. I second it.

Mr. WHITE. It has been moved and seconded that Mr. Wyatt's bill, waiving the statute of limitations for Master Sergeant Benavidez for purposes of recommendation of the Medal of Honor.

All in favor signify by saying aye.

[All ayes.]

Mr. WHITE. All opposed?

[No response.]

Mr. WHITE. The ayes have it.

The motion is carried, and the bill is reported to the full committee with the recommendation that it be passed.

Any further business?

I really thank you all for being here.

The subcommittee will stand adjourned.

[Whereupon, at 2:05 p.m. the Military Personnel Subcommittee of the Committee on Armed Services adjourned.]

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